

Applicant: Wing, et al.  
Serial No.: 09/944,190

Attorney Ref.: 1242.017

### REMARKS

The Applicant respectfully requests entry of the above amendments and reconsideration of the application, as amended.

By this Amendment, canceled claims to non-elected species and introduced new claims 59-76 drawn to the elected species which further recite the invention to which the Applicant is entitled. Since no amendments were made to the wording of the existing claims and new claims were introduced a mark-up of the existing claims to identify the amendments is not necessary. Claims 9-13, 22-40, 42-44, 48-51, 54 and 59-77 are now pending in this application.

#### Response to Restriction

In the Office Action mailed September 20, 2002, pursuant to 35 U.S.C. 121, the Patent Office requested that examination of the present application be restricted to one of the following inventions:

- I. Claims 1-8 and 45-47 drawn to an obturator, classified in class 128, subclass 79;
- II. Claims 9-13, 22-26, 31, 48-51, and 54 as drawn to the trocar, classified in class 604, subclass 264;
- III. Claims 18-21, 41, 52, 53, and 55-58 drawn to a cannula, classified in class 600, subclass 585;
- IV. Claims 14-17 drawn to a method for extracting an obturator, classified in class 128, subclass 898;

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V. Claims 27-30, 40, and 42-45 drawn to a method of removing an obturator from a trocar, classified in class 604, subclass 506.

VI. Claims 32-39, drawn to a method of using a trocar, classified in class 604, subclass 513.

In response to this Restriction Requirement, the Applicant hereby provisionally elects Group II, claims 9-13, 22-26, 31, 48-51, and 54, with traverse, for prosecution at this time. New claims 59-76 are also drawn to the invention of Group II. The Applicant reserves the right to pursue protection of one or more groups of non-elected claims via one or more divisional applications at a later time.

In paragraph 8 on pages 4 and 5 of the Action, the Patent Office identified the following species:

“For the bearing surface: Species A-D – Figures 4A-D, respectively.

For the Trocar Assembly: Species L, M, N, O, P, Q – Figures 1, 8, 11A, 12, 13, 19A.

For the Seal: Species X and Y – Figures 18A, and 18C.”

The Patent Office then requested that a single species be elected for prosecution on the merits. In response to this request, the Applicant elects species P, the trocar assembly, as illustrated in Figures 13 through 16. The Applicant submits that claims 9-13, 22-26, 31, 48-51, and 54 of Group II and new claims 59-77 are readable upon Figures 13 through 16.

The above provisional election of Group II claims and the election of species P is submitted in compliance with 35 U.S.C. §121 and is made without prejudice to the non-elected claims.

Though this Response to restriction and election of species is made to comply with the request by the Patent Office, the Applicant respectfully requests that the claims

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of Group V and Group VI - which are classified in the same class 604 of elected Group II - also be examined at this time. The Applicant submits that since the claims of Groups V and VI comprise the same classification and the same field of search as the claims of elected Group II, their examination will not impose any additional burden on the Patent Office. The Applicant requests that the claims of Groups V and VI also be prosecuted on the merits at this time.

The Applicant believes that the application is now in allowable form. Early passage of the subject application to issue is earnestly solicited.

If a telephone conference would be of assistance in advancing prosecution of the subject application, Applicant's undersigned agent invites the Examiner to telephone him at the number provided.

Respectfully submitted,

  
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Dated: October 21, 2002

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